

103D CONGRESS  
1ST SESSION

**S. 486**

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**AN ACT**

To reorganize the Federal administrative law  
judiciary, and for other purposes.

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## AN ACT

To reorganize the Federal administrative law judiciary, and  
for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Reorganization of the  
5       Federal Administrative Judiciary Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) in order to promote efficiency, productivity,  
4 the reduction of administrative functions, and to  
5 provide economies of scale and better public service  
6 and public trust in the administrative resolution of  
7 disputes, Federal administrative law judges should  
8 be organized in a unified corps;

9 (2) the dispersal of administrative law judges  
10 appointed under section 3105 of title 5, United  
11 States Code, in every Federal agency that requires  
12 hearings to be conducted by administrative law  
13 judges, underutilizes the potential of administrative  
14 law judges to serve the public and assist the Federal  
15 courts as special masters and finders of fact in spe-  
16 cific instances to help reduce the backlog of cases in  
17 Federal courts;

18 (3) the organization of administrative law  
19 judges in a corps will best promote their assignment  
20 to Federal agency needs as demand requires;

21 (4) a unified administrative law judge corps will  
22 better promote the use of information technology in  
23 serving the public; and

24 (5) an administrative law judge corps will,  
25 through consolidation, eliminate unnecessary offices  
26 and reduce travel and other related costs.

1 **SEC. 3. ESTABLISHMENT OF ADMINISTRATIVE LAW JUDGE**

2 **CORPS.**

3 (a) IN GENERAL.—Chapter 5 of title 5, United  
4 States Code, is amended by adding at the end thereof the  
5 following new subchapter:

6 “SUBCHAPTER VI—ADMINISTRATIVE LAW  
7 JUDGE CORPS

8 “§ 597. Definitions

9 “For the purposes of this subchapter—

10 “(1) ‘agency’ means an authority referred to in  
11 section 551(1);

12 “(2) ‘Corps’ means the Administrative Law  
13 Judge Corps of the United States established under  
14 section 598;

15 “(3) ‘administrative law judge’ means an ad-  
16 ministrative law judge appointed under section 3105  
17 on or before the effective date of the Reorganization  
18 of the Federal Administrative Judiciary Act or  
19 under section 599c after such effective date;

20 “(4) ‘chief judge’ means the chief administra-  
21 tive law judge appointed and serving under section  
22 599;

23 “(5) ‘Council’ means the Council of the Admin-  
24 istrative Law Judge Corps established under section  
25 599b;

1           “(6) ‘Board’, unless otherwise indicated, means  
2           the Complaints Resolution Board established under  
3           section 599e; and

4           “(7) ‘division chief judge’ means the chief ad-  
5           ministrative law judge of a division appointed and  
6           serving under section 599a.

7   **“§ 598. Establishment; membership**

8           “(a) ESTABLISHMENT.—There is established an Ad-  
9           ministrative Law Judge Corps consisting of all adminis-  
10          trative law judges, in accordance with the provisions of  
11          subsection (b). Such Corps shall be administered in Wash-  
12          ington, D.C.

13          “(b) MEMBERSHIP.—An administrative law judge  
14          serving as such on the date of the commencement of the  
15          operation of the Corps shall be transferred to the Corps  
16          as of that date. An administrative law judge who is ap-  
17          pointed on or after the date of the commencement of the  
18          operation of the Corps shall be a member of the Corps  
19          as of the date of such appointment.

20   **“§ 599. Chief administrative law judge**

21          “(a) APPOINTMENT; TERM.—The chief administra-  
22          tive law judge shall be the chief administrative officer of  
23          the Corps and shall be the presiding judge of the Corps.  
24          The chief judge shall be appointed by the President, by  
25          and with the advice and consent of the Senate. The chief

1 judge shall be learned in the law. The chief judge shall  
2 serve for a term of five years or until a successor is ap-  
3 pointed and qualifies to serve. A chief judge may be  
4 reappointed upon the expiration of the term of such judge,  
5 by and with the advice and consent of the Senate.

6 “(b) VACANCIES.—(1) If the office of chief judge is  
7 vacant, the division chief judge who is senior in length of  
8 service as a member of the Council shall serve as acting  
9 chief judge until such vacancy is filled.

10 “(2) If 2 or more division chief judges have the same  
11 length of service as members of the Council, the division  
12 chief judge who is senior in length of service as an admin-  
13 istrative law judge shall serve as such acting chief judge.

14 “(c) SPECIAL FUNCTIONS OF CHIEF JUDGE.—(1) In  
15 addition to other duties conferred on the chief judge, the  
16 chief judge shall be responsible for developing programs  
17 and practices, in coordination with agencies using admin-  
18 istrative law judges, which foster economy and efficiency  
19 in the processing of cases heard by administrative law  
20 judges. These programs and practices shall include—

21 “(A) training of judges in more than one sub-  
22 ject area;

23 “(B) employment of computers and software  
24 and other information technology for automated de-  
25 cision preparation, case docketing, and research;

1           “(C) consolidating hearing facilities and law li-  
2       braries; and

3           “(D) programs and practices to foster overall  
4       efficient use of staff, personnel, equipment, and fa-  
5       cilities.

6       “(2) In order to minimize costs—

7           “(A) all administrative law judges and support  
8       personnel shall, for at least 1 year after the date of  
9       the commencement of the operation of the Corps,  
10      continue to use the office space and facilities, at the  
11      agencies using such judges and personnel, available  
12      before such date, and

13          “(B) the chief judge shall phase in transfers of  
14      administrative law judges and support personnel to  
15      other facilities so that the cost of providing facilities  
16      for the Corps shall not exceed the cost of maintain-  
17      ing such judges and personnel in equivalent space  
18      available at agencies using the Corps.

19      “(d) REPORTS.—The chief judge shall, within 90  
20      days after the end of each fiscal year, make a written re-  
21      port to the President and the Congress concerning the  
22      business of the Corps during the preceding fiscal year. The  
23      report shall include information and recommendations of  
24      the Council concerning the future personnel requirements  
25      of the Corps.

1       “(e) SERVICE AFTER TERM EXPIRES.—After serving  
2 as chief judge, an individual may continue to serve as an  
3 administrative law judge unless such individual has been  
4 removed from office in accordance with section 599c.

5       **“§ 599a. Divisions of the Corps; division chief judges**

6       “(a) ASSIGNMENT TO DIVISIONS.—Each judge of the  
7 Corps shall be assigned to a division by the Council, pur-  
8 suant to section 599b. The assignment of a judge who was  
9 an administrative law judge on the date of commencement  
10 of the operation of the Corps shall be made after consider-  
11 ation of the areas of specialization in which the judge has  
12 served. Each division shall be headed by a division chief  
13 judge who shall exercise administrative supervision over  
14 such division.

15       “(b) DIVISIONS.—The divisions of the Corps shall be  
16 as follows:

17               “(1) Division of Communications, Public Util-  
18 ity, and Transportation Regulation.

19               “(2) Division of Safety and Environmental Reg-  
20 ulation.

21               “(3) Division of Labor.

22               “(4) Division of Labor Relations.

23               “(5) Division of Health and Human Services  
24 Programs.



1           “(6) Division of Securities, Commodities, and  
2       Trade Regulation.

3           “(7) Division of General Programs.

4           “(8) Division of Financial Services Institutions.

5       “(c) APPOINTMENT OF DIVISION CHIEF JUDGES.—

6       (1) The division chief judge of each division set forth in  
7       subsection (b) shall be appointed by the President, by and  
8       with the advice and consent of the Senate, and shall be  
9       learned in the law.

10       “(2) Division chief judges shall be appointed for 5-  
11       year terms, except that of those division chief judges first  
12       appointed, the President shall designate 2 such individuals  
13       to be appointed for 5-year terms, 3 for 4-year terms, and  
14       2 for 3-year terms.

15       “(3) Any division chief judge appointed to fill an  
16       unexpired term shall be appointed only for the remainder  
17       of such predecessor’s term, but may be reappointed as pro-  
18       vided in paragraph (4).

19       “(4) Any division chief judge may be reappointed  
20       upon the expiration of his or her term.

21       “(5) Any judge, after serving as division chief judge,  
22       may continue to serve as an administrative law judge un-  
23       less such individual has been removed from office in ac-  
24       cordance with section 599e.

1   **“§ 599b. Council of the Corps**

2           “(a) IN GENERAL.—The policymaking body of the  
3 Corps shall be the Council of the Corps. The chief judge  
4 and the division chief judges shall constitute the Council.  
5 The chief judge shall preside over the Council. If the chief  
6 judge is unable to be present at a meeting of the Council,  
7 the division chief judge who is senior in length of service  
8 as a member of such Council shall preside at the meeting.

9           “(b) QUORUM; VOTING.—One half of all of the mem-  
10 bers of the Council shall constitute a quorum for the pur-  
11 pose of transacting business. The affirmative vote by a  
12 majority of all the members of the Council shall be re-  
13 quired to approve a matter on behalf of the Council. Each  
14 member of the Council shall have one vote.

15           “(c) MEETINGS.—Meetings of the Council shall be  
16 held at least once a month at the call of the chief judge  
17 or by the call of one-third or more of the members of the  
18 Council.

19           “(d) POWERS.—The Council is authorized—

20                   “(1) to assign judges to divisions and transfer  
21 or reassign judges from one division to another, sub-  
22 ject to the provisions of section 599c;

23                   “(2) to appoint persons as administrative law  
24 judges under section 599c;

1           “(3) to file charges seeking adverse action  
2           against an administrative law judge under section  
3           599e;

4           “(4) to prescribe, after providing an oppor-  
5           tunity for notice and comment, the rules of practice  
6           and procedure for the conduct of proceedings before  
7           the Corps, except that, with respect to a category of  
8           proceedings adjudicated by an agency before the ef-  
9           fective date of the Reorganization of the Federal Ad-  
10          ministrative Judiciary Act, the Council may not  
11          amend or revise the rules of practice and procedure  
12          prescribed by that agency during the 2 years follow-  
13          ing such effective date without the approval of that  
14          agency, and any amendments or revisions made to  
15          such rules shall not affect or be applied to any pend-  
16          ing action;

17          “(5) to issue such rules and regulations as may  
18          be appropriate for the efficient conduct of the busi-  
19          ness of the Corps and the implementation of this  
20          subchapter, including the assignment of cases to ad-  
21          ministrative law judges;

22          “(6) subject to the civil service and classifica-  
23          tion laws and regulations—

24                  “(A) to select, appoint, employ, and fix the  
25                  compensation of the employees (other than ad-

1           ministrative law judges) that the Council deems  
2           necessary to carry out the functions, powers,  
3           and duties of the Corps; and

4                 “(B) to prescribe the authority and duties  
5           of such employees;

6                 “(7) to establish, abolish, alter, consolidate, and  
7           maintain such regional, district, and other field of-  
8           fices as are necessary to carry out the functions,  
9           powers, and duties of the Corps and to assign and  
10          reassign employees to such field offices;

11                “(8) to procure temporary and intermittent  
12          services under section 3109;

13                “(9) to enter into, to the extent or in such  
14          amounts as are authorized in appropriation Acts,  
15          without regard to section 3709 of the Revised Stat-  
16          utes of the United States (41 U.S.C. 5), contracts,  
17          leases, cooperative agreements, or other transactions  
18          that may be necessary to conduct the business of the  
19          Corps;

20                “(10) to delegate any of the chief judge’s func-  
21          tions or powers with the consent of the chief judge,  
22          or whenever the office of such chief judge is vacant,  
23          to one or more division chief judges or other employ-  
24          ees of the Corps, and to authorize the redelegation  
25          of any of those functions or powers;

1           “(11) to establish, after consulting with an  
2           agency, initial and continuing educational programs  
3           to assure that each administrative law judge as-  
4           signed to hear cases of that agency has the nec-  
5           essary training in the specialized field of law of that  
6           agency;

7           “(12) to make suitable arrangements for con-  
8           tinuing education and training of other employees of  
9           the Corps, so that the level of expertise in the divi-  
10          sions of the Corps will be maintained and enhanced;  
11          and

12          “(13) to determine all other matters of general  
13          policy of the Corps.

14          “(e) OFFICIAL SEAL.—The Council shall select an of-  
15          ficial seal for the Corps which shall be judicially noticed.

16          **“§ 599c. Appointment and transfer of administrative**  
17                               **law judges**

18          “(a) APPOINTMENT.—After the initial establishment  
19          of the Corps, the Council shall appoint new or additional  
20          judges as may be necessary for the efficient and expedi-  
21          tious conduct of the business of the Corps. Appointments  
22          shall be made from a register maintained by the Office  
23          of Personnel Management under subchapter I of chapter  
24          33 of this title. Upon request by the chief judge, the Office  
25          of Personnel Management shall certify enough names from

1 the top of such register to enable the Council to consider  
2 five names for each vacancy. Notwithstanding section  
3 3318, a vacancy in the Corps may be filled from the high-  
4 est five eligible individuals available for appointment on  
5 the certificate furnished by the Office of Personnel Man-  
6 agement.

7 “(b) LIMITATION ON JUDGE’S DUTIES.—A judge of  
8 the Corps may not perform or be assigned to perform du-  
9 ties inconsistent with the duties and responsibilities of an  
10 administrative law judge.

11 “(c) REASSIGNMENTS; DETAILS.—A judge or staff  
12 member of the Corps on the date of commencement of the  
13 operation of the Corps, and all new judges and staff mem-  
14 bers appointed by the Council, may not thereafter be invol-  
15 untarily reassigned to a new permanent duty station if  
16 such station is beyond the commuting area of the duty  
17 station which is the judge’s or staff member’s permanent  
18 duty station on that date. A judge or staff member of the  
19 Corps may be temporarily detailed, once in a 24-month  
20 period, to a new duty station at any location, for a period  
21 of not more than 120 days.

22 **“§ 599d. Jurisdiction**

23 “(a) IN GENERAL.—Any case, claim, action, or pro-  
24 ceeding authorized to be heard before an administrative  
25 law judge on the day before the effective date of the Reor-

1 ganization of the Federal Administrative Judiciary Act  
2 shall, on or after such date, be referred to the Corps for  
3 adjudication on the record after an opportunity for a hear-  
4 ing.

5 “(b) TYPES OF CASES.—An administrative law judge  
6 who is a member of the Corps shall hear and render a  
7 decision upon—

8 “(1) every case of adjudication subject to the  
9 provisions of section 553, 554, or 556;

10 “(2) every case in which hearings are required  
11 by law to be held in accordance with sections 553,  
12 554, or section 556;

13 “(3) every other case referred to the Corps by  
14 an agency in which a determination is to be made  
15 on the record after an opportunity for a hearing;  
16 and

17 “(4) every case referred to the Corps by a court  
18 for an administrative law judge to act as a special  
19 master or to otherwise making findings of fact on  
20 behalf of the referring court, which shall continue to  
21 have exclusive and undiminished jurisdiction over  
22 the case.

23 “(c) REFERRAL OF CASES.—When a case under sub-  
24 section (b) arises, it shall be referred to the Corps. Under  
25 regulations issued by the Council, the case shall be as-

1 signed to a division. The appropriate division chief shall  
2 assign cases to judges, taking into consideration speciali-  
3 zation, training, workload, and conflicts of interest.

4 “(d) REFERRALS BY AGENCIES AND COURTS.—  
5 Courts are authorized to refer, subject to the approval of  
6 the majority of the Council and the parties in the court  
7 proceeding, those cases, or portions thereof, in which they  
8 seek an administrative law judge either to act as a special  
9 master pursuant to the provisions of Rule 53(a) of the  
10 Federal Rules of Civil Procedure or otherwise seek an ad-  
11 ministrative law judge to make findings of fact in a case  
12 on behalf of the referring court, which shall continue to  
13 have exclusive and undiminished jurisdiction over the case.  
14 When a court has referred a case to an administrative law  
15 judge, the recommendations, rulings, and findings of fact  
16 of the administrative law judge are subject to de novo re-  
17 view by the referring court.

18 “(e) SATISFACTION OF OTHER PROCEDURAL RE-  
19 QUIREMENTS.—Compliance with this subchapter shall sat-  
20 isfy all requirements imposed under section 916 of the Fi-  
21 nancial Institutions Reform, Recovery, and Enforcement  
22 Act of 1989.

23 “(f) APPLICATION OF AGENCY POLICY.—The provi-  
24 sions of this subchapter shall effect no change in—



1           “(1) an agency’s rulemaking, interpretative, or  
2           policymaking authority in carrying out the statutory  
3           responsibilities vested in the agency or agency head;

4           “(2) the adjudicatory authority of administra-  
5           tive law judges; or

6           “(3) the authority of an agency to review deci-  
7           sions of administrative law judges under any appli-  
8           cable provision of law.

9   **“§ 599e. Removal and discipline**

10       “(a) IN GENERAL.—(1) Except as provided under  
11       paragraph (2), an administrative law judge may not be  
12       removed, suspended, reprimanded, or disciplined except  
13       for misconduct or neglect of duty, but may be removed  
14       for physical or mental disability (consistent with prohibi-  
15       tions on discrimination otherwise imposed by law).

16       “(2) Paragraph (1) shall not apply to an action initi-  
17       ated under section 1215.

18       “(b) RULES OF JUDICIAL CONDUCT.—No later than  
19       180 days after the appointment and confirmation of the  
20       Council, the Council shall adopt and issue rules of judicial  
21       conduct for administrative law judges. Such code shall be  
22       enforced by the Council and shall include standards gov-  
23       erning—

1           “(1) judicial conduct and extra-judicial activi-  
2           ties to avoid actual, or the appearance of, impropri-  
3           eties or conflicts of interest;

4           “(2) the performance of judicial duties impar-  
5           tially and diligently;

6           “(3) avoidance of bias or prejudice with respect  
7           to all parties; and

8           “(4) efficiency and management of cases so as  
9           to reduce dilatory practices and unnecessary costs.

10          “(c) DISCIPLINARY ACTION BY THE COUNCIL.—An  
11       administrative law judge may be subject to disciplinary ac-  
12       tion by the Council under subsection (j). An administra-  
13       tive law judge may be removed only after the Council has  
14       filed with the Merit Systems Protection Board a notice  
15       of removal and the Merit Systems Protection Board has  
16       determined on the record, after an opportunity for a hear-  
17       ing before the Merit Systems Protection Board, that there  
18       is good cause to take the action of removal.

19          “(d) COMPLAINTS RESOLUTION BOARD.—Under reg-  
20       ulations issued by the Council, a Complaints Resolution  
21       Board shall be established within the Corps to consider  
22       and to recommend appropriate action to be taken when  
23       a complaint is made concerning conduct of a judge of the  
24       Corps. Such complaint may be made by any interested

1 person, including parties, practitioners, the chief judge,  
2 administrative law judges, and agencies.

3 “(e) COMPOSITION OF THE BOARD.—(1) The Board  
4 shall consist of—

5 “(A) 2 judges from each division of the Corps,  
6 who shall be appointed by the Council; and

7 “(B) 16 attorneys who shall be appointed in ac-  
8 cordance with the provisions of paragraph (2).

9 “(2) The Council shall request a list of candidates  
10 to be members of the Board from the American Bar Asso-  
11 ciation. Such list may not include any individual who is  
12 an administrative law judge or former administrative law  
13 judge.

14 “(3) The chief judge and the division chief judges  
15 may not serve on the Board.

16 “(4) No individual may serve 2 successive terms on  
17 the Board.

18 “(5)(A) Except as provided under subparagraph (B),  
19 all terms on the Board shall be 2 years.

20 “(B) In making the original appointments to the  
21 Board, the Council shall designate one-half of the appoint-  
22 ments made under paragraph (1)(A) and one-half of the  
23 appointments made under paragraph (1)(B), as a term of  
24 1 year.

1       “(6)(A) Each member of the Board who is not an  
2 officer or employee of the Federal Government shall be  
3 compensated at a rate equal to the daily equivalent of the  
4 annual rate of basic pay prescribed for a position at the  
5 level of AL-3, rate C under section 5372 of this title for  
6 each day (including traveltime) during which such member  
7 is engaged in the performance of the duties of the Board.  
8 All members of the Board who are administrative law  
9 judges shall serve without compensation in addition to  
10 that received for their services as officers or employees of  
11 the United States.

12       “(B) The members of the Board shall be allowed  
13 travel expenses, including per diem in lieu of subsistence,  
14 at rates authorized for employees of agencies under sub-  
15 chapter I of chapter 57 of title 5, United States Code,  
16 while away from their homes or regular places of business  
17 in the performance of services for the Board.

18       “(f) FILING AND REFERRAL OF COMPLAINT.—(1) A  
19 complaint concerning the official conduct of an adminis-  
20 trative law judge shall be made in writing. The complaint  
21 shall be filed with the chief judge, or it may be originated  
22 by the chief judge on his own motion. The chief judge shall  
23 refer the complaint to a 5-member panel designated by  
24 the Council—

1           “(A) consisting of 3 administrative law judges  
2           appointed under subsection (e)(1)(A), none of whom  
3           may be serving in the same division as the adminis-  
4           trative law judge who is the subject of the com-  
5           plaint; and

6           “(B) two members appointed under subsection  
7           (e)(1)(B), none of whom regularly practice before  
8           the division to which the administrative law judge,  
9           who is the subject of the complaint is assigned.

10          “(2) Any individual chosen to serve on the panel who  
11       has a personal or financial conflict of interest involving  
12       the administrative law judge who is the subject of the com-  
13       plaint shall be disqualified by the Council from serving on  
14       the panel. The Council shall replace any disqualified indi-  
15       vidual or vacancy with another member of the Board who  
16       is eligible to serve on the panel.

17          “(g) CHIEF JUDGE ACTION.—(1) After expeditiously  
18       reviewing a complaint, the chief judge, by written order  
19       stating his reason, may—

20               “(A) dismiss the complaint, if the chief judge  
21       finds the complaint to be—

22                       “(i) directly related to the merits of a deci-  
23                       sion or procedural ruling; or

24                       “(ii) frivolous;

1           “(B) conclude the proceeding if the chief judge  
2       finds that appropriate corrective action has been  
3       taken or that action on the complaint is no longer  
4       necessary because of intervening events; or

5           “(C) refer the complaint to the Complaint Res-  
6       olution Board in accordance with subsection (f).

7           “(2) The chief judge shall transmit copies of the writ-  
8       ten order to the complainant and to the administrative law  
9       judge who is the subject of the complaint.

10          “(h) NOTICE OF THE COMPLAINT.—The administra-  
11       tive law judge and the complainant shall be given notice  
12       of receipt of the complaint and notice of referral of the  
13       complaint to the panel.

14          “(i) INQUIRY AND REPORT BY PANEL.—(1) The  
15       panel shall inquire into the complaint and have authority  
16       to conduct a full investigation of the complaint, including  
17       authority to hold hearings and issue subpoenas, examine  
18       witnesses, and receive evidence. All proceedings of the  
19       Complaint Resolution Board shall be confidential. The ad-  
20       ministrative law judge who is the subject of the complaint  
21       shall have the right to be represented by counsel and shall  
22       have an opportunity to appear before the panel. The com-  
23       plainant shall be afforded an opportunity to appear at the  
24       proceedings conducted by the investigating panel, if the

1 panel concludes that the complainant could offer substan-  
2 tial information.

3 “(2) In determining whether misconduct has oc-  
4 curred, the panel shall apply a preponderance of evidence  
5 standard of proof to its proceedings.

6 “(3)(A) Within 90 days after the referral of the com-  
7 plaint, the panel shall report to the Council on its findings  
8 of fact and recommendations for appropriate disciplinary  
9 action, if any, that should be taken against the adminis-  
10 trative law judge.

11 “(B) If the panel has not completed its inquiry within  
12 90 days after receiving the complaint, the panel shall re-  
13 quest an extension of time from the Council to complete  
14 its inquiry.

15 “(C) A copy of the report shall be provided concur-  
16 rently to the Council, the administrative law judge who  
17 is the subject of the complaint, and the complainant. The  
18 Council shall retain all reports filed under this section and  
19 such reports shall be confidential, except that a rec-  
20 ommendation for disciplinary action shall be made avail-  
21 able to the public.

22 “(4) The recommendations of the panel shall include  
23 one of the following:

24 “(A) Dismissal of all or part of the complaint.

25 “(B) Direct informal reprimand.

1           “(C) Direct formal reprimand.

2           “(D) Suspension.

3           “(E) Automatic referral to the Merit Systems  
4       Protection Board on recommendations of removal.

5       “(5) The recommendations of the panel are binding  
6 on the Council, unless the administrative law judge ap-  
7 peals to the Merit Systems Protection Board.

8       “(j) DISCIPLINARY ACTION.—Except as provided in  
9 subsection (a)(2), the Council shall take appropriate dis-  
10 ciplinary action against the administrative law judge based  
11 upon the report of the panel within 30 days after receiving  
12 the report of the panel. Such disciplinary action shall be  
13 enforced by the Council and shall be final unless the ad-  
14 ministrative law judge files an appeal with the Merit Sys-  
15 tems Protection Board within 30 days after receiving no-  
16 tice of such disciplinary action.

17       “(k) RECOMMENDATION FOR RELIEF TO AGENCY,  
18 DEPARTMENT, OR COMMISSION.—Based upon a finding of  
19 judicial misconduct by an administrative law judge, the  
20 Council shall have authority to recommend to the head  
21 of an agency, department or commission that action may  
22 be taken to provide relief to aggrieved individuals due to  
23 the judicial misconduct by an administrative law judge.”.

24       (b) APPOINTMENTS OF DIVISION CHIEF JUDGES.—  
25 It is the sense of the Congress that the President should



1 appoint as division chief judges under section 599a(c) of  
 2 title 5, United States Code (as added by subsection (a)  
 3 of this section), individuals who have served as an admin-  
 4 istrative law judge for at least 5 years.

5 (c) ADMINISTRATIVE PROVISION.—Except as pro-  
 6 vided under subchapter VI of chapter 5 of title 5, United  
 7 States Code, the chief administrative law judge and the  
 8 division chief judges appointed under such subchapter  
 9 shall be deemed administrative law judges appointed  
 10 under section 3105.

11 (d) TECHNICAL AND CONFORMING AMENDMENT.—  
 12 The table of sections for chapter 5 of title 5, United States  
 13 Code, is amended by adding at the end thereof the follow-  
 14 ing:

15 “SUBCHAPTER VI—ADMINISTRATIVE LAW  
 16 JUDGE CORPS

“Sec.

“597. Definitions.

“598. Establishment; membership.

“599. Chief administrative law judge.

“599a. Divisions of the Corps; division chief judges.

“599b. Council of the Corps.

“599c. Appointment and transfer of administrative law judges.

“599d. Jurisdiction.

“599e. Removal and discipline.”.

17 **SEC. 4. AGENCY REVIEW STUDY AND REPORT.**

18 (a) STUDY.—The chief administrative law judge of  
 19 the Administrative Law Judge Corps of the United States  
 20 shall conduct a study of the various types and levels of  
 21 agency review to which decisions of administrative law

1 judges are subject. A separate study shall be conducted  
2 for each division of the Corps. The studies shall include  
3 monitoring and evaluating data and shall be conducted in  
4 consultation with the division chief judges, the Chairman  
5 of the Administrative Conference of the United States,  
6 and the agencies that review the decisions of administra-  
7 tive law judges.

8 (b) REPORT.—(1) Not later than 2 years after the  
9 effective date of this Act, the Council shall report to the  
10 President and the Congress on the findings and rec-  
11 ommendations resulting from the studies conducted under  
12 subsection (a).

13 (2) The report under paragraph (1) shall include rec-  
14 ommendations, including recommendations for new legis-  
15 lation, for any reforms that may be appropriate to make  
16 review of administrative law judges' decisions more effi-  
17 cient and meaningful and to accord greater finality to such  
18 decisions, except that all decisions subject, before the ef-  
19 fective date of this Act, to review pursuant to section  
20 205(g) of the Social Security Act (42 U.S.C. 405(g)) shall  
21 continue to be subject to such review pursuant to such  
22 section.

23 (3) The report under paragraph (1) shall also include  
24 recommendations for using staff more efficiently to de-

1 crease backlogs, especially in the area of social security  
2 disability cases.

3 **SEC. 5. TRANSITION AND SAVINGS PROVISIONS.**

4 (a) TRANSFER OF FUNCTIONS.—There are trans-  
5 ferred to the administrative law judges of the Administra-  
6 tive Law Judge Corps established by section 598 of title  
7 5, United States Code (as added by section 3 of this Act),  
8 all functions authorized to be performed on the day before  
9 the effective date of this Act by the administrative law  
10 judges appointed under section 3105 of such title before  
11 the effective date of this Act.

12 (b) USE OF AGENCY FACILITIES AND PERSONNEL.—  
13 With the consent of the agencies concerned, the Adminis-  
14 trative Law Judge Corps of the United States may use  
15 the facilities and the services of officers, employees, and  
16 other personnel of agencies from which functions and du-  
17 ties are transferred to the Corps for so long as may be  
18 needed to facilitate the orderly transfer of those functions  
19 and duties under this Act.

20 (c) INCIDENTAL TRANSFERS.—The personnel, assets,  
21 liabilities, contracts, property, records, and unexpended  
22 balances of appropriations, authorizations, allocations,  
23 and other funds employed, held, used, arising from, avail-  
24 able or to be made available, in connection with the func-  
25 tions transferred by this Act, are, subject to section 1531

1 of title 31, United States Code, transferred to the Corps  
2 for appropriate allocation.

3 (d) PAY OF TRANSFERRED PERSONNEL.—The trans-  
4 fer of personnel pursuant to subsection (b) or (c) shall  
5 be without reduction in pay or classification for 5 years  
6 after such transfer.

7 (e) AUTHORITIES OF DIRECTOR OF OMB.—The Di-  
8 rector of the Office of Management and Budget, at such  
9 time or times as the Director shall provide, may make  
10 such determinations as may be necessary with regard to  
11 the functions transferred by this Act, and to make such  
12 additional incidental dispositions of personnel, assets, li-  
13 abilities, grants, contracts, property, records, and unex-  
14 pended balances of appropriations, authorizations, alloca-  
15 tions, and other funds held, used, arising from, available  
16 to, or to be made available in connection with such func-  
17 tions, as may be necessary to carry out the provisions of  
18 this Act.

19 (f) CONTINUED EFFECTIVENESS OF PRIOR AC-  
20 TIONS.—All orders, determinations, rules, regulations,  
21 permits, contracts, collective bargaining agreements, rec-  
22 ognition of labor organizations, certificates, licenses, and  
23 privileges which have been issued, made, granted, or al-  
24 lowed to become effective in the exercise of any duties,  
25 powers, or functions which are transferred under this Act

1 and are in effect at the time this Act becomes effective  
2 shall continue in effect according to their terms until  
3 modified, terminated, superseded, set aside, or repealed by  
4 the Administrative Law Judge Corps of the United States  
5 or a judge thereof in the exercise of authority vested in  
6 the Corps or its members by this Act, by a court of com-  
7 petent jurisdiction, or by operation of law.

8 (g) PENDING PROCEEDINGS.—(1) Except as pro-  
9 vided in subsections (d)(5) and (e) of section 599b of title  
10 5, United States Code, this Act shall not affect any pro-  
11 ceeding before any department or agency or component  
12 thereof which is pending at the time this Act takes effect.  
13 Such a proceeding shall be continued before the Adminis-  
14 trative Law Judge Corps of the United States or a judge  
15 thereof, or, to the extent the proceeding does not relate  
16 to functions so transferred, shall be continued before the  
17 agency in which it was pending on the effective date of  
18 this Act.

19 (2) No suit, action, or other proceeding commenced  
20 before the effective date of this Act shall abate by reason  
21 of the enactment of this Act.

22 (h) REPORTS BY OFFICE OF MANAGEMENT AND  
23 BUDGET.—The Director of the Office of Management and  
24 Budget shall monitor and report to the Congress—

1           (1) 60 days after the effective date of this Act,  
2           on the amount of all funds expended in fiscal year  
3           1994 by each agency on the functions transferred  
4           under this Act and the amendments made by this  
5           Act;

6           (2) no later than October 1, 1994, on the  
7           amount of unexpended balances of appropriations,  
8           authorizations, allocations, and other funds trans-  
9           ferred by all agencies to the Administrative Law  
10          Judge Corps under this Act and the amendments  
11          made by this Act; and

12          (3) 1 year after the effective date of this Act,  
13          and each of the next 2 years thereafter on—

14                (A) whether the expenditure of each agen-  
15                cy that transfers functions and duties under  
16                this Act and the amendments made by this Act  
17                are reduced by the amount of savings resulting  
18                from the transfer of such functions and duties;  
19                and

20                (B) the Government savings resulting from  
21                transfer of such functions to the Administrative  
22                Law Judge Corps and recommendations to the  
23                Congress on how to achieve additional savings.

1 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated for each of  
3 fiscal years 1995, 1996, 1997, 1998, and 1999 to carry  
4 out the provisions of this Act and subchapter VI of title  
5 5, United States Code (as added by section 3 of this Act)  
6 such amounts as may be necessary, not to exceed in any  
7 such fiscal year the total amount expended by all agencies  
8 in fiscal year 1994 in performing all functions transferred  
9 under this Act and the amendments made by this Act.

10 **SEC. 7. TECHNICAL AND CONFORMING AMENDMENTS.**

11       (a) TITLE 5, UNITED STATES CODE.—Title 5, Unit-  
12 ed States Code, is amended as follows:

13           (1) Section 593(b) is amended—

14                   (A) by redesignating paragraphs (4), (5),  
15                   and (6) as paragraphs (5), (6), and (7), respec-  
16                   tively, and

17                   (B) by inserting the following after para-  
18                   graph (3):

19                   “(4) the chief administrative law judge of the  
20           Administrative Law Judge Corps of the United  
21           States;”.

22           (2) Section 3105 is amended to read as follows:

23 **“§ 3105. Appointment of administrative law judges**

24       “Administrative law judges shall be appointed by the  
25 Council of the Administrative Law Judge Corps pursuant  
26 to sections 596 and 599c of this title.”.

1           (3) Section 3344, and the item relating to sec-  
2           tion 3344 in the table of sections for chapter 33, are  
3           repealed.

4           (4) Subchapter III of chapter 75, and the items  
5           relating to subchapter III and section 7521 in the  
6           table of sections at the beginning of chapter 75, are  
7           repealed.

8           (5) Section 559 is amended—

9                   (A) in the first sentence by striking “chap-  
10                  ter 7” and all that follows through “7521” and  
11                  inserting “subchapter VI of this chapter, chap-  
12                  ter 7, and sections 1305, 3105, 4301(2)(E),  
13                  and 5372”; and

14                  (B) in the last sentence by striking “chap-  
15                  ter 7” and all that follows through “7521” and  
16                  inserting “subchapter VI of this chapter, chap-  
17                  ter 7, section 1305, 3105, 4301(2)(E), or  
18                  5372”.

19           (6) Section 1305 is amended—

20                   (A) by striking “section 3105, 3344,” and  
21                  inserting “sections 3105,”; and

22                   (B) by striking “, and for the purpose of  
23                  section 7521 of this title, the Merit Systems  
24                  Protection Board may”.



1           (7) Section 5514(a)(2) is amended in the fourth  
2 sentence by striking “, except that” and all that fol-  
3 lows through “administrative law judge”.

4           (8) Section 7105 is amended—

5                 (A) in subsection (d) by striking “, admin-  
6 istrative law judges under section 3105 of this  
7 title,”; and

8                 (B) in subsection (e)(2) by striking “under  
9 subsection (d) of this section” and inserting  
10 “under section 3105 of this title”.

11           (9) Section 7132(a) is amended by striking  
12 “appointed by the Authority under section 3105 of  
13 this title” and inserting “appointed under section  
14 3105 of this title who is conducting hearings under  
15 this chapter”.

16           (10) Section 7502 is amended by striking  
17 “7521 or”.

18           (11) Section 7512(E) is amended by striking  
19 “or 7521”.

20           (b) OTHER PROVISIONS OF LAW.—

21                 (1) Section 6(c) of the Commodity Exchange  
22 Act is amended—

23                         (A) in the second sentence (7 U.S.C. 9)—

24                                 (i) by striking “Administrative Law  
25 Judge designated by the Commission” and

1 inserting “administrative law judge of the  
2 Administrative Law Judge Corps”; and

3 (ii) by striking “Administrative Law  
4 Judge” and inserting “administrative law  
5 judge”; and

6 (B) by striking “Administrative Law  
7 Judge” each subsequent place it appears (7  
8 U.S.C. 15) and inserting “administrative law  
9 judge of the Administrative Law Judge Corps”.

10 (2) Section 12(b) of the Commodity Exchange  
11 Act (7 U.S.C. 16(b)) is amended by striking “Ad-  
12 ministrative Law Judges,”.

13 (3) Section 274B(e)(2) of the Immigration and  
14 Nationality Act (8 U.S.C. 1324b(e)(2)) is amended  
15 by striking “are specially designated by the Attorney  
16 General as having” and inserting “have”.

17 (4) Section 1416(a) of the Interstate Land  
18 Sales Full Disclosure Act (15 U.S.C. 1715(a)) is  
19 amended—

20 (A) in the first sentence by inserting “,  
21 subject to section 599d of title 5, United States  
22 Code,” after “who may”;

23 (B) by striking the second sentence; and

24 (C) in the third sentence by striking “his  
25 administrative law judges to other administra-

1           tive law judges or” and inserting “administra-  
2           tive law judges carrying out functions under  
3           this title”.

4           (5) Section 488A(b) of the Higher Education  
5           Act of 1965 (20 U.S.C. 1095a(b)) is amended in the  
6           third sentence by striking “, except that” and all  
7           that follows through “administrative law judge”.

8           (6) Section 509(1) of title 28, United States  
9           Code, is amended—

10                   (A) by striking “subchapter II” and insert-  
11                   ing “subchapters II and VI”; and

12                   (B) by striking “employed by the Depart-  
13                   ment of Justice”.

14           (7) Section 12 of the Occupational Safety and  
15           Health Act of 1970 (29 U.S.C. 661) is amended—

16                   (A) in subsection (e)—

17                           (i) by striking “administrative law  
18                           judges and other”; and

19                           (ii) by striking “: *Provided*” and all  
20                           that follows through the end of the sub-  
21                           section and inserting a period;

22                   (B) in subsection (j) in the first sentence  
23                   by striking “A” and all that follows through  
24                   “Commission,” and inserting “An administra-  
25                   tive law judge to whom is assigned any proceed-

1           ing instituted before the Commission shall hear  
2           and make a determination upon the proceeding  
3           and any motion in connection with such pro-  
4           ceeding,”; and

5           (C) by striking subsection (k).

6           (8) Section 502(e)(1) of the Rehabilitation Act  
7           of 1973 (29 U.S.C. 792(e)(1)) is amended by strik-  
8           ing the second and third sentences and inserting the  
9           following: “Proceedings required to be conducted  
10          under this section shall be presided over by adminis-  
11          trative law judges appointed under subchapter VI of  
12          chapter 5 of title 5, United States Code.”.

13          (9) Section 166 of the Job Training Partner-  
14          ship Act (29 U.S.C. 1576(a)) is amended in the first  
15          sentence by striking “of the Department of Labor”.

16          (10) Section 5(e) of the Federal Mine Safety  
17          and Health Act of 1977 (30 U.S.C. 804(e)) is  
18          amended to read as follows:

19          “(e) Proceedings required to be conducted in accord-  
20          ance with the provisions of this Act shall be presided over  
21          by administrative law judges appointed under subchapter  
22          VI of chapter 5 of title 5, United States Code.”.

23          (11) Section 113 of the Federal Mine Safety  
24          and Health Act of 1977 (30 U.S.C. 823) is amend-  
25          ed—

1 (A) in subsection (b)(2) by striking all that  
2 follows the second sentence;

3 (B) in subsection (d)(1) in the first sen-  
4 tence by striking “appointed by the Commis-  
5 sion” and all that follows through “by the Com-  
6 mission,” and inserting “to whom is assigned  
7 any proceeding instituted before the Commis-  
8 sion shall hear and make a determination upon  
9 the proceeding and any motion in connection  
10 with the proceeding,”; and

11 (C) in subsection (e) in the first sentence  
12 by striking “its” each place it appears.

13 (12) Section 428(b) of the Black Lung Benefits  
14 Act (30 U.S.C. 938(b)) is amended by striking the  
15 seventh sentence.

16 (13) Section 321(c)(1) of title 31, United  
17 States Code, is amended—

18 (A) by striking “subchapter II” and insert-  
19 ing “subchapters II and VI”; and

20 (B) by striking “employed by the Sec-  
21 retary”.

22 (14) Section 3801(a)(7)(A) of title 31, United  
23 States Code, is amended by striking “appointed in  
24 the authority” and all that follows through “such

1 title;” and inserting “of the Administrative Law  
2 Judge Corps;”.

3 (15) Section 19(d) of the Longshore and Har-  
4 bor Workers’ Compensation Act (33 U.S.C. 919(d))  
5 is amended by amending the second sentence to read  
6 as follows: “Any such hearing shall be conducted by  
7 an administrative law judge qualified under sub-  
8 chapter VI of chapter 5 of that title.”.

9 (16) Section 21(b)(5) of the Longshore and  
10 Harbor Workers’ Compensation Act (33 U.S.C.  
11 921(b)(5)) is amended by striking the first sentence.

12 (17) Section 7101(b)(2)(B) of title 38, United  
13 States Code, is amended by striking “7521” and in-  
14 serting “599e”.

15 (18) Section 8(b)(1) of the Contract Disputes  
16 Act of 1978 (41 U.S.C. 607(b)(1)) is amended in  
17 the first sentence by striking “hearing examiners ap-  
18 pointed pursuant to section 3105 of title 5, United  
19 States Code” and inserting “administrative law  
20 judges appointed under section 3105 of title 5, Unit-  
21 ed States Code (as in effect on the day before the  
22 effective date of the Reorganization of the Federal  
23 Administrative Judiciary Act)”.

24 (19) Section 705(a) of the Civil Rights Act of  
25 1964 (42 U.S.C. 2000e–4(a)) is amended—

1 (A) by striking “administrative law  
2 judges,”; and

3 (B) by striking “: *Provided*” and all that  
4 follows through the end of the subsection and  
5 inserting a period.

6 (20) Section 808(c) of the Act of April 11,  
7 1968 (42 U.S.C. 3608(c)), is amended—

8 (A) in the first sentence by inserting “,  
9 subject to section 599d of title 5, United States  
10 Code,” after “The Secretary may”;

11 (B) by striking the second sentence; and

12 (C) in the last sentence by striking “his  
13 hearing examiners to other hearing examiners  
14 or” and inserting “administrative law judges  
15 carrying out functions under this title”.

16 (21) Section 806 of the Omnibus Crime Control  
17 and Safe Streets Act of 1968 (42 U.S.C. 3787) is  
18 amended—

19 (A) in the first sentence by striking “ap-  
20 point such hearing examiners” and all that fol-  
21 lows through “United States Code,” and insert-  
22 ing “, subject to section 599d of title 5, United  
23 States Code, request the use of such adminis-  
24 trative law judges”; and

1 (B) in the second sentence by striking  
2 “hearing examiner or administrative law judge  
3 assigned to or employed thereby” and inserting  
4 “such administrative law judge”.

5 (22) Section 401(c) of the Department of En-  
6 ergy Organization Act (42 U.S.C. 7171(c)) is  
7 amended by striking “appointment and employment  
8 of hearing examiners in accordance with the provi-  
9 sions of title 5,” and inserting “referral of cases to  
10 the Administrative Law Judge Corps in accordance  
11 with subchapter VI of chapter 5 of title 5,”.

12 (23) Section 303(c)(3) of the Independent Safe-  
13 ty Board Act of 1974 (49 U.S.C. App. 1902(c)(3))  
14 is amended by striking “, attorneys, and administra-  
15 tive law judges” and inserting “and attorneys”.

16 (24) Section 304(b)(1) of the Independent  
17 Safety Board Act of 1974 (49 U.S.C. App.  
18 1903(b)(1)) is amended in the first sentence by  
19 striking “employed by or”.

20 (c) REFERENCES IN OTHER LAWS.—Reference in  
21 any other Federal law to an administrative law judge or  
22 hearing examiner or to an administrative law judge, hear-  
23 ing examiner, or employee appointed under section 3105  
24 of title 5, United States Code, shall be deemed to refer  
25 to an administrative law judge of the Administrative Law



1 Judge Corps established by section 598 of title 5, United  
2 States Code.

3 **SEC. 8. OPERATION OF THE CORPS.**

4 Operation of the Corps shall commence on the date  
5 the first chief administrative law judge of the Corps takes  
6 office.

7 **SEC. 9. CONTRACT DISPUTES ACT.**

8 Nothing in this Act or the amendments made by this  
9 Act shall be deemed to affect any agency board established  
10 pursuant to the Contract Disputes Act (41 U.S.C. 601  
11 and following), or any other person designated to resolve  
12 claims or disputes pursuant to such Act.

13 **SEC. 10. PAYMENT BY CERTAIN AGENCIES FOR ADMINIS-**  
14 **TRATIVE LAW JUDGE SALARIES AND EX-**  
15 **PENSES.**

16 Any agency which before the effective date of this Act  
17 paid the salaries and expenses of administrative law  
18 judges from fees charged by such agency shall on and  
19 after the effective date of this Act pay from such fees to  
20 the chief judge of the Administrative Law Judge Corps,  
21 or the designee of the chief judge, an amount necessary  
22 to reimburse the salaries and expenses of the Corps for  
23 services provided by the Corps to such agency.

1 **SEC. 11. EFFECTIVE DATE.**

2       Except as otherwise provided, this Act and the  
3 amendments made by this Act shall take effect 120 days  
4 after the date of the enactment of this Act.

      Passed the Senate November 20 (legislative day, November 2), 1993.

Attest:

*Secretary.*

S 486 ES——2

S 486 ES——3

S 486 ES——4

S 486 ES——5